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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,716	05/04/1999	JAMES WILLIAM CREE	4546RC2D	1077

27752 7590 08/13/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 08/13/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/304,716	CREE ET AL.
Examiner	Art Unit	
Michele Kidwell	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 6-8 and 10-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 6-8 and 10-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

In view of the Appeal Brief filed on May 27, 2003, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 – 8 and 10 – 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Cree et al. (WO 93/11725).

With reference to claim 6, Cree et al. (hereinafter "Cree) disclose a sanitary napkin comprising a liquid permeable top layer (28), a liquid impermeable back layer (30), a liquid absorbent core disposed between the top layer and the back layer (32), said top layer having a central zone and side zones at both sides of the central zone, said top layer including an upper layer of thermoplastic synthetic resinous material (page 10, 2nd paragraph) and a lower layer of thermoplastic synthetic fibers (34) which is more hydrophilic than the upper layer but less hydrophilic than the core (page 10, 2nd paragraph; page 20, 2nd paragraph; page 34, 2nd and 3rd paragraphs), said upper and lower layers being intermittently bonded together by thermal embossing said side zones (page 23, 3rd and 4th paragraphs to page 24, 1st full paragraph) and said central zone being thicker than said side zones as set forth in figure 2.

As to claim 7, Cree discloses a sanitary napkin wherein the lower layer is coextensive with substantially an entire surface of the upper layer as set forth in figure 15.

Regarding claim 8, Cree discloses a sanitary napkin wherein portions of the top layer and the back layer extending outwardly beyond a peripheral edge of the core are bonded together by a seal line as set forth on page 43, 1st full paragraph.

With respect to claims 10 and 11, Cree discloses the thermoplastic synthetic resinous material as a fibrous nonwoven web and as a perforated film as set forth on page 10, 2nd paragraph.

With reference to claim 12, Cree discloses a sanitary napkin comprising a liquid permeable top layer (28), a liquid impermeable back layer (30), a liquid absorbent core disposed between the top layer and the back layer (32), said top layer having a central zone and side zones at both sides of the central zone, said top layer including an upper layer of thermoplastic synthetic resinous material (page 10, 2nd paragraph) and a lower layer of thermoplastic synthetic fibers (34), said upper and lower layers being intermittently bonded together by thermal embossing said side zones (page 23, 3rd and 4th paragraphs to page 24, 1st full paragraph) and said central zone being thicker than said side zones as set forth in figure 2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell
Michele Kidwell
August 11, 2003

GKD
GLENN K. DAWSON
PRIMARY EXAMINER